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**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

EVELYN OLIVE, STERLING KING,  
PAUL BERGER, SALLY CRNKOVICH,  
JESSICA BREITBACH, MARC  
BLUMSTEIN, LOUISE ADAMS,  
BRIAN LEVY, JOHN TRENT, TINA  
GRANT, JENNIFER A. NELSON, and  
ELIZABETH TWITCHELL, on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

BUMBLE BEE FOODS LLC,  
STARKIST COMPANY, TRI-UNION  
SEAFOODS LLC, and KING OSCAR,  
INC.,

Defendants.

Case No. '15CV1909 BEN WVG

**CLASS ACTION COMPLAINT  
FOR DAMAGES AND  
INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

1 Plaintiffs Evelyn Olive, Sterling King, Paul Berger, Sally Crnkovich, Jessica  
2 Breitbart, Marc Blumstein, Louise Adams, Brian Levy, John Trent, Tina Grant,  
3 Jennifer A. Nelson, and Elizabeth Twitchell (“Plaintiffs”), for their complaint,  
4 allege upon personal knowledge as to themselves and their own actions, and upon  
5 information and belief, including the investigation of counsel, as follows:

6 **NATURE OF ACTION**

7 1. This is an antitrust class action brought against Defendants Bumble  
8 Bee Foods LLC, StarKist Company, Tri-Union Seafoods LLC, and King Oscar,  
9 Inc. (collectively “Defendants”) pursuant to Sections 1 and 2 of the Sherman Act,  
10 15 U.S.C. §§ 1, 2, and Section 3 of the Clayton Act, 15 U.S.C. § 14, and  
11 California, Florida and Michigan state antitrust and unfair competition laws. This  
12 action is brought by Plaintiffs, on behalf of themselves and of Classes of persons  
13 and entities who indirectly purchased from any Defendant or current or former  
14 subsidiary or affiliate, shelf-stable packaged seafood products (“PSPs”), including  
15 tuna, crab, mackerel, oyster, salmon, sardines and shrimp during the period from  
16 and including at least January 1, 2000 through such time as the anticompetitive  
17 effects of Defendants’ conduct ceases (the “Class Period”).

18 2. Defendants have conspired to raise, fix, stabilize or maintain prices as  
19 well as allocate customers, and restrict capacity within the market for the sale of  
20 PSPs during the Class Period.

21 3. With slowing and stagnating growth in the PSP industry, beginning  
22 around 2000, Defendants directly coordinated the pricing and market allocation  
23 for PSPs throughout the United States. As part of this, Defendants increased  
24 prices for PSPs to record highs in spite of reduced consumer interest and falling  
25 demand. That conduct continues to this day.

26 **PARTIES**

27 **Plaintiffs**

28 4. Plaintiff Evelyn Olive is domiciled in San Bernardino County,

1 California and purchased PSPs, primarily canned tuna, indirectly from one or more  
2 Defendants in the State of California during the Class Period.

3 5. Plaintiff Sterling King is domiciled in Madison County, Alabama and  
4 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in  
5 the State of Alabama during the Class Period.

6 6. Plaintiff Paul Berger is domiciled in the District of Columbia and  
7 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in  
8 the District of Columbia during the Class Period.

9 7. Plaintiff Sally Crnkovich is domiciled in Cook County, Illinois and  
10 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in  
11 the State of Illinois during the Class Period.

12 8. Plaintiff Jessica Breitbach is domiciled in Lake County, Illinois and  
13 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in  
14 the State of Wisconsin during the Class Period.

15 9. Plaintiff Marc Blumstein is domiciled in Palm Beach County, Florida  
16 and purchased PSPs, primarily canned tuna, indirectly from one or more  
17 Defendants in the State of Florida during the Class Period.

18 10. Plaintiff Louise Adams is domiciled in Chippewa County, Michigan  
19 and purchased PSPs, primarily canned tuna, indirectly from one or more  
20 Defendants in the State of Michigan during the Class Period.

21 11. Plaintiff Brian Levy is domiciled in Nassau County, New York and  
22 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in  
23 the State of New York during the Class Period.

24 12. Plaintiff John Trent is domiciled in Shelby County, Tennessee and  
25 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in  
26 the State of Tennessee during the Class Period.

27 13. Plaintiff Tina Grant is domiciled in Salt Lake County, Utah and  
28 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in

1 the States of Utah and Arizona during the Class Period.

2 14. Plaintiff Jennifer A. Nelson is domiciled in Bennington County,  
3 Vermont and purchased PSPs, primarily canned tuna, indirectly from one or more  
4 Defendants in the State of Vermont during the Class Period.

5 15. Plaintiff Elizabeth Twitchell is domiciled in Alexandria County,  
6 Virginia and purchased PSPs, primarily canned tuna, indirectly from one or more  
7 Defendants in the States of Virginia and North Carolina during the Class Period.

8 **Defendants**

9 16. Defendant Tri-Union Seafoods, LLC d/b/a Chicken of the Sea  
10 International (“COTS”) is a Delaware corporation with its principal place of  
11 business at 4510 Executive Drive, No. 3, San Diego, CA 92121.

12 17. Defendant King Oscar, Inc. (“KOI”) is a Delaware corporation with  
13 its principal place of business at 3838 Camino Del Rio North, Suite 115, San  
14 Diego, CA 92108.

15 18. Together, Defendants COTS and KOI (“Tri-Union”) are wholly-  
16 owned subsidiaries of Thai Union Frozen Products Public Company, Ltd. (“Thai  
17 Union”), a publicly held company headquartered in Thailand.

18 19. Defendant Bumble Bee Foods LLC, f/k/a Bumble Bee Seafoods LLC  
19 (“Bumble Bee”) is a Delaware corporation with its principal place of business at  
20 9655 Granite Ridge Drive, Suite 100, San Diego, CA 92123. Bumble Bee is a  
21 wholly-owned subsidiary of Lion Capital, a private investment firm headquartered  
22 in the United Kingdom.

23 20. Defendant StarKist Company (“StarKist”) is a Delaware corporation  
24 with its principal place of business at 225 North Shore Drive, Suite 400,  
25 Pittsburgh, PA 15212. StarKist is a wholly-owned subsidiary of Dongwon  
26 Enterprises Co., which is headquartered in the Republic of Korea.

27 21. Defendants and their co-conspirators directly and through their  
28 affiliated sold PSPs in the United States and in this district at artificially-inflated

1 prices during the Class Period. Defendants are direct, horizontal competitors in the  
2 United States PSP market.

### 3 **AGENTS AND CO-CONSPIRATORS**

4 22. On information and belief, other corporations, partnerships, or business  
5 entities, currently unknown to Plaintiffs, are co-conspirators with Defendants in  
6 their unlawful restraints of trade. Various persons that are not named as  
7 Defendants have participated as co-conspirators in the violations alleged herein  
8 and have performed acts and made statements in furtherance thereof.

9 23. These other persons or entities have facilitated, adhered to,  
10 participated in, and/or communicated with others regarding the alleged  
11 conspiracy to raise prices of PSPs and the anticompetitive and unduly restrictive  
12 exclusive dealing agreements addressed in this lawsuit. Plaintiffs reserve the right  
13 to name some or all of these entities as Defendants at a later date.

### 14 **JURISDICTION AND VENUE**

15 24. This Court has federal question jurisdiction pursuant to the Sherman  
16 Act, 15 U.S.C. §§ 1-7, the Clayton Act, 15 U.S.C. §§ 15, 26; 28 U.S.C. §§ 1331,  
17 1337; and it has supplemental jurisdiction over the state law claims pursuant to 28  
18 U.S.C. § 1367.

19 25. This Court also has jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)  
20 (“The Class Action Fairness Act”) because sufficient diversity of citizenship exists  
21 between parties in this action, the aggregate amount in controversy exceeds  
22 \$5,000,000, and there are 100 or more members of each of the Classes.

23 26. Venue is proper in this district pursuant to Section 12 of the Clayton  
24 Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1391 (b)-(d), because a substantial part of  
25 the events giving rise to Plaintiffs’ claims occurred in this District, a substantial  
26 portion of the affected interstate trade and commerce discussed below has been  
27 carried out in this District, and one or more of the Defendants, are licensed to do  
28 business in, are doing business in, had agents in, or are found or transact business

1 in California and this District.

2 27. This Court has *in personam* jurisdiction over the Defendants because  
 3 each, either directly or through the ownership and/or control of its subsidiaries,  
 4 *inter alia*: transacted business in the United States, including in this District;  
 5 directly or indirectly sold or marketed PSPs throughout California, including in  
 6 this District; had substantial aggregate contacts with the United States as a whole,  
 7 including in this District; or were engaged in anticompetitive conduct that was  
 8 directed at, and had a direct, substantial, reasonably foreseeable and intended effect  
 9 of causing injury to, the business or property of persons and entities residing in,  
 10 located in, or doing business throughout California, including in this District.  
 11 Defendants also have purposefully availed themselves of the laws of the United  
 12 States.

13 28. Defendants' unlawful conduct described herein adversely affected  
 14 persons and entities in California who purchased PSPs, including Plaintiffs and the  
 15 Classes.

### 16 **CLASS ACTION ALLEGATIONS**

17 29. Plaintiffs bring this action on behalf of themselves and as a class  
 18 action under Federal Rules of Civil Procedure 23(a), (b)(2) and (b)(3), seeking  
 19 damages, equitable and injunctive relief on behalf of the following classes:

- 20 a. All persons and entities who resided in the United States who  
 21 indirectly purchased, from any Defendants or any current or former  
 22 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
 23 Class Period for the purposes of injunctive relief under The Sherman  
 24 Act (the "Sherman Act Nationwide Class")
- 25 b. All persons and entities who resided in the United States who  
 26 indirectly purchased, from any Defendants or any current or former  
 27 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
 28 Class Period for the purposes of injunctive and equitable relief under

1 The Cartwright Act (the “Cartwright Act Nationwide Class”)

- 2 c. All persons and entities who resided in the State of California who  
3 indirectly purchased, from any Defendant or any current or former  
4 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
5 Class Period (the “California Class”);
- 6 d. All persons and entities who resided in the State of Alabama who  
7 indirectly purchased, from any Defendant or any current or former  
8 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
9 Class Period (the “Alabama Class”);
- 10 e. All persons and entities who resided in the State of Arizona who  
11 indirectly purchased, from any Defendant or any current or former  
12 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
13 Class Period (the “Arizona Class”);
- 14 f. All persons and entities who resided in the District of Columbia who  
15 indirectly purchased, from any Defendant or any current or former  
16 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
17 Class Period (the “District of Columbia Class”);
- 18 g. All persons and entities who resided in the State of Florida who  
19 indirectly purchased, from any Defendant or any current or former  
20 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
21 Class Period (the “Florida Class”);
- 22 h. All persons and entities who resided in the State of Illinois who  
23 indirectly purchased, from any Defendant or any current or former  
24 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
25 Class Period (the “Illinois Class”);
- 26 i. All persons and entities who resided in the State of Michigan who  
27 indirectly purchased, from any Defendant or any current or former  
28 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the



1 Class Period (the “Michigan Class”);

2 j. All persons and entities who resided in the State of New York who  
3 indirectly purchased, from any Defendant or any current or former  
4 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
5 Class Period (the “New York Class”).

6 k. All persons and entities who resided in the State of North Carolina  
7 who indirectly purchased, from any Defendant or any current or  
8 former subsidiary or affiliate thereof, or any co-conspirator, PSPs  
9 during the Class Period (the “North Carolina Class”);

10 l. All persons and entities who resided in the State of Tennessee who  
11 indirectly purchased, from any Defendant or any current or former  
12 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
13 Class Period (the “Tennessee Class”); and

14 m. All persons and entities who resided in the State of Utah who  
15 indirectly purchased, from any Defendant or any current or former  
16 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
17 Class Period (the “Utah Class”);

18 n. All persons and entities who resided in the State of Vermont who  
19 indirectly purchased, from any Defendant or any current or former  
20 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
21 Class Period (the “Vermont Class”);

22 o. All persons and entities who resided in the State of Virginia who  
23 indirectly purchased, from any Defendant or any current or former  
24 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the  
25 Class Period (the “Virginia Class”);

26 p. All persons and entities who resided in the State of Wisconsin who  
27 indirectly purchased, from any Defendant or any current or former  
28 subsidiary or affiliate thereof, or any co-conspirator, PSPs during the



1 Class Period (the “Wisconsin Class”);

2 30. The Sherman Act Nationwide Class, the Cartwright Act Nationwide  
3 Class, the California Class, the Alabama Class, the Arizona Class, the District of  
4 Columbia Class, the Florida Class, the Illinois Class, the Michigan Class, the New  
5 York Class, the North Carolina Class, the Tennessee Class, the Utah Class, the  
6 Vermont Class, the Virginia Class, and the Wisconsin Class are collectively  
7 referred to herein as the “Classes.”

8 31. Excluded from the Classes are Defendants, their parent companies,  
9 subsidiaries and affiliates, any co-conspirators, federal governmental entities and  
10 instrumentalities of the federal government, states and their subdivisions, agencies  
11 and instrumentalities, and persons who purchased PSPs directly.

12 32. The Classes are so numerous that joinder of all members is  
13 impracticable. While Plaintiffs do not know the exact number of the members of  
14 the Classes, Plaintiffs believe there are (at least) thousands of members in each of  
15 the Classes.

16 33. Common questions of law and fact exist as to all members of the  
17 Classes. This is particularly true given the nature of Defendants’ conspiracy, which  
18 was generally applicable to all members of each of the Classes, thereby making  
19 appropriate relief with respect to each Class as a whole. Such questions of law and  
20 fact common to the Classes include, but are not limited to:

21 (a) Whether the Defendants and their co-conspirators engaged in a  
22 combination and conspiracy to fix, raise, maintain or stabilize the  
23 prices of PSPs sold in the United States;

24 (b) The identity of the participants of the alleged conspiracy;

25 (c) The duration of the alleged conspiracy and the acts carried out  
26 by Defendants and their co-conspirators in furtherance of the  
27 conspiracy;

28

1 (d) Whether Defendants' alleged conduct violated the Sherman and  
2 Clayton Acts;

3 (e) Whether Defendants' alleged conduct violated California,  
4 Alabama, Arizona, District of Columbia, Florida, Illinois, Michigan,  
5 New York, North Carolina, Tennessee, Utah, Vermont, Virginia, and  
6 Wisconsin state law;

7 (f) Whether the conduct of Defendants and their co-conspirators,  
8 as alleged in this Complaint, caused injury to the business or property  
9 of Plaintiffs and the members of the Classes;

10 (g) The effect of Defendants' alleged conduct on the prices of PSPs  
11 sold in the United States during the Class Period;

12 (h) The appropriate relief for the Classes, including injunctive and  
13 equitable relief.

14 34. Plaintiffs' claims are typical of the claims of the members of the  
15 Classes, and Plaintiffs will fairly and adequately protect the interests of the  
16 Classes. Plaintiffs and all members of the Classes are similarly affected by  
17 Defendants' wrongful conduct in that they paid artificially inflated prices for PSPs  
18 purchased indirectly from the Defendants and/or their co-conspirators.

19 35. Plaintiffs' claims arise out of the same common course of conduct  
20 giving rise to the claims of the other members of the Classes. Plaintiffs' interests  
21 are coincident with, and not antagonistic to, those of the other members of the  
22 Classes. Plaintiffs are represented by counsel who are competent and experienced  
23 in the prosecution of antitrust and class action litigation.

24 36. The questions of law and fact common to the members of the Classes  
25 predominate over any questions affecting only individual members, including legal  
26 and factual issues relating to liability and damages.

27 37. Class action treatment is a superior method for the fair and efficient  
28 adjudication of the controversy, in that, among other things, such treatment will

1 permit a large number of similarly situated persons to prosecute their common  
2 claims in a single forum simultaneously, efficiently and without the unnecessary  
3 duplication of evidence, effort and expense that numerous individual actions would  
4 engender. The benefits of proceeding through the class mechanism, including  
5 providing injured persons or entities with a method for obtaining redress for claims  
6 that it might not be practicable to pursue individually, substantially outweigh any  
7 difficulties that may arise in management of this class action.

8 38. The prosecution of separate actions by individual members of the  
9 Classes would create a risk of inconsistent or varying adjudications, establishing  
10 incompatible standards of conduct for Defendants.

#### 11 **RELEVANT MARKETS**

12 39. The relevant geographic market is the United States. To compete  
13 effectively within the United States, Defendants and other producers of PSPs need  
14 distribution assets and relationships within the United States. PSP manufacturers  
15 and sellers located outside of the United States that lack such assets and  
16 relationships are unable to constrain the prices of PSPs and sellers that have  
17 such domestic assets and relationships.

#### 18 **INTERSTATE COMMERCE**

19 40. Defendants manufactured and/or sold PSPs in the United States in a  
20 continuous and uninterrupted flow of interstate commerce, including through and  
21 into this judicial district.

22 41. Defendants' business activities substantially affected interstate  
23 commerce in the United States and caused antitrust injury throughout the United  
24 States.

25 42. Together, Defendants have a market share of roughly 85% of the  
26 United States PSP industry. StarKist controls roughly 35-40% of the market,  
27 Bumble Bee roughly 25% and Tri-Union roughly 20%.

28 ///

**ADDITIONAL FACTUAL ALLEGATIONS**

**A. Background**

43. PSPs start as raw seafood that is processed, cooked and canned for flavor, safety and to increase shelf life. Because the animals that comprise PSPs are generally caught far out to sea, raw seafood is usually delivered to canneries or processing facilities in a frozen or refrigerated state.

44. Seafood of acceptable quality is transferred to large ovens for “pre-cooking”. Following pre-cooking and cleaning, seafood is fed to a filling machine which transfers the seafood to cans, pouches or cups in pre-set amounts. The containers are then closed and sealed in sealing machines.

45. Each package has a code that identifies the plant, product, date, batch and other identifying information. Filled and sealed packages are then cooked under pressure to make the products commercially sterile and so that they will have a long shelf-life.

46. Defendants all sell PSPs in the United States. StarKist, Bumble Bee and Tri-Union sell packaged tuna, clams, salmon, and sardines. King Oscar sells sardines, tuna, cod and salmon. Bumble Bee and Tri-Union also sell packaged crab, mackerel, oysters and shrimp.

47. The PSP industry generates yearly sales of approximately \$2.6 billion. Tuna, the largest category of PSP by far, accounts for approximately \$1.7 billion of this.

48. Defendants collectively dominate the United States industry for PSPs, and have done so for decades. However, since 2000, demand for PSPs have been declining for numerous reasons.

49. However, while consumption has declined, prices have increased. For example, average per person tuna consumption decreased from 3.5 to 2.4 pounds per person per year from 2000 to 2014, while the average price per carton of canned tuna has increased from just over \$15 to roughly \$40 in the same period.

1           50. In a competitive environment, a decline in demand for a given product  
2 normally leads to a decline in that product's price. However, as Defendants  
3 control the market and have agreed to restrict capacity, allocate customers, and fix  
4 prices for PSPs, the prices were set at artificially high levels.

5           51. Prices for PSPs since at least 2000 were a direct result of Defendants'  
6 conspiracy to restrict capacity, allocate customers, and fix the prices of PSPs in the  
7 United States. As a result, Plaintiffs and the Classes paid artificially-inflated prices  
8 for PSPs purchased indirectly from Defendants.

9           **B. Defendants Engaged in an Anticompetitive Conspiracy**

10          52. At least as early as January 2000 – and continuing to the present –  
11 Defendants Tri-Union, Bumble Bee and StarKist participated in anticompetitive  
12 communications, including telephone calls (some multiple times per day) and  
13 frequent face-to-face meetings at pre-arranged locations. At these meetings,  
14 Defendants shared sensitive business information and entered into agreements to  
15 fix, raise, stabilize, and/or maintain the prices of PSPs sold to customers in the  
16 United States.

17          53. As part of this, senior executives of Defendants met at least twice a  
18 year.

19          54. At other times, senior executives of the Defendants regularly  
20 discussed prices and shared sensitive customer information.

21          55. Throughout the Class Period, Defendants communicated regularly  
22 by telephone to discuss prices and sensitive customer information. For example,  
23 during at least one telephone conversation between Bumble Bee and StarKist  
24 executives, StarKist informed Bumble Bee that StarKist and Tri-Union were in  
25 agreement to raise prices.

26          56. As part of the conspiracy, Defendants discussed pricing and agreed  
27 to coordinate the timing and level of price increases for PSPs sold to customers  
28 in the United States. Defendants also agreed to allocate customers and restrict

1 output capacity.

2 57. Defendants had ample opportunities for collusion. Defendants  
3 routinely attended trade shows and conferences, at which they discussed PSP  
4 pricing and other anticompetitive practices.

5 58. Defendants also collaborated on projects at trade and other not-for-  
6 profit associations during the relevant period, such as the “Tuna the Wonderfish”  
7 campaign and the International Seafood Sustainability Foundation.

8 59. For example, the “Tuna the Wonderfish” campaign was designed to  
9 combat declining sales of PSPs from early 2011 to early 2012. It was  
10 unsuccessful, but it gave Defendants ample opportunity to collude to raise and  
11 fix PSP prices. This was evidenced in a 2012 price increase in the face of falling  
12 demand.

13 60. Defendants Bumble Bee and Tri-Union also cooperate on seafood  
14 processing and packaging. Bumble Bee co-packs for the West Coast of the  
15 United States for Tri-Union in Bumble Bee’s Santa Fe Springs, California plant  
16 while Tri-Union does the same for the East Coast in Lyons, Georgia.

17 **C. The PSP Market Is Conducive to Collusion**

18 61. The PSP market is structured and characterized in such a way as to be  
19 highly conducive to conspiracy.

20 62. PSPs are commodity products which are sold to wholesale and retail  
21 stores (and, in a very few cases, directly to consumers) which in turn sell to  
22 customers such as the Plaintiffs. There are different varieties of PSPs, but within  
23 each type of seafood, each variety is sold in similar amounts in similar sizes with  
24 similar shelf life and in similar types of packaging. As a result, consumers such as  
25 Plaintiffs are more likely to be influenced by price when making a purchasing  
26 decision.

27 63. There are numerous barriers to entry into the PSP market. Start-up  
28 costs are very high, and access to manufacturing materials, distribution channels

1 and raw materials are all highly restricted. Defendants are able to raise prices  
2 without fear of being undercut by new entrants into the market.

3 64. As stated above, Defendants have roughly 80% of the market share  
4 for the United States, so almost all wholesale or retail purchasers do business with  
5 Defendants.

6 65. There are no economically reasonable substitutes for PSPs. Potential  
7 substitutes, such as fresh or frozen seafood, are generally sold raw and do not have  
8 similar shelf-lives and require preparation before consumption.

9 **D. The Department of Justice Investigates Defendants**

10 66. The San Francisco office of the Antitrust Division of the United States  
11 Department of Justice is currently investigating anticompetitive practices in the PSP  
12 industry. A grand jury has been convened. Two Defendants, Tri-Union and Bumble  
13 Bee, have publicly confirmed receipt of grand jury subpoenas.

14 67. On July 23, 2015, Thai Union confirmed that “Tri-Union Seafoods LLC,  
15 operating in the United States under the brand Chicken of the Sea ha[d] received a  
16 subpoena requiring the production of relevant information to the DOJ” and that  
17 “Chicken of the Sea is cooperating fully with the investigation.”

18 68. On July 17, 2015, Thai Union announced it suspended a planned public  
19 stock offering. Thai Union stated that it wanted ‘additional clarity’ on the investigation  
20 before proceeding with the offering. Thai Union has notified the Securities and  
21 Exchange Commission of the suspension.

22 69. On July 23, 2015, Bumble Bee acknowledged receipt of a grand jury  
23 subpoena. Bumble Bee stated, “The Company did receive a grand jury subpoena  
24 relating to a US Department of Justice investigation into potential antitrust violations in  
25 the packaged seafood industry. The Company is cooperating fully with the  
26 investigation.”

27 70. StarKist has not announced whether or not it has received a grand jury  
28 subpoena. However, upon information and belief, StarKist has applied for and been



1 accepted into the DOJ's corporate leniency program. This admittance is specifically  
2 related to Defendants' price-fixing activities and other anticompetitive conduct in  
3 violation of Section 1 of The Sherman Act in the United States PSP market.

4 **PLAINTIFFS AND THE CLASSES SUFFERED ANTITRUST INJURY**

5 71. Defendants' anticompetitive conduct had the following effects, among  
6 others:

- 7 a. Price competition has been restrained or eliminated with respect to
- 8 PSPs sold in the United States;
- 9 b. The prices of PSPs sold in the United States have been fixed, raised,
- 10 maintained, or stabilized at artificially inflated levels;
- 11 c. Indirect purchasers of PSPs have been deprived of free and open
- 12 competition; and
- 13 d. Indirect purchasers of PSPs paid artificially inflated prices.

14 72. By reason of the alleged violations of the antitrust laws and other laws  
15 alleged herein, Plaintiffs and the members of the Classes have sustained injury to  
16 their businesses or property, having paid higher prices for PSPs than they would  
17 have paid in the absence of the Defendants' illegal conduct, and, as a result, have  
18 suffered damages in an amount presently undetermined. This is an antitrust injury  
19 of the type that the antitrust laws were meant to punish and prevent.

20 **FRAUDULENT CONCEALMENT AND**  
21 **THE TOLLING OF THE STATUTE OF LIMITATIONS**

22 73. Throughout the Class Period, Defendants affirmatively and  
23 fraudulently concealed their unlawful conduct from discovery by Plaintiffs.

24 74. Plaintiffs did not discover, nor could have discovered through the  
25 exercise of due diligence, the existence of the conspiracy and Defendants' and their  
26 co-conspirators' involvement in the conspiracy before July 23, 2015, when the  
27 Department of Justice's investigation became public.

28 75. Because the conspiracy was actively concealed until July 23, 2015,

1 Plaintiffs were unaware of Defendants' and their co-conspirators' unlawful  
2 conduct. Until that time, Plaintiffs were unaware that they were paying artificially-  
3 inflated prices for seafood.

4 76. The affirmative acts of Defendants and their co-conspirators,  
5 including acts in furtherance of the conspiracy, were wrongfully concealed and  
6 conducted in a manner that precluded detection.

7 77. Defendants and their co-conspirators agreed among themselves not to  
8 discuss publicly or otherwise reveal the nature and substance of the acts and  
9 communications in furtherance of their illegal conspiracy.

10 78. Defendants and their co-conspirators met and communicated secretly  
11 concerning the pricing and marketing of PSPs so as to avoid detection.

12 79. Plaintiffs could not have discovered the alleged conspiracy at an  
13 earlier date by the exercise of reasonable diligence because of the deceptive  
14 practices and techniques employed by Defendants and their co-conspirators to  
15 avoid the detection of, and fraudulently conceal, their contract, conspiracy, or  
16 combination. Defendants' conspiracy was fraudulently concealed by various  
17 means and methods, including, but not limited to, secret meetings,  
18 misrepresentations to customers, and surreptitious communications among  
19 Defendants and their co-conspirators via telephone or in in-person meetings in  
20 order to prevent the existence of written records.

21 80. Because the alleged conspiracy was affirmatively concealed by  
22 Defendants and their co-conspirators until July 23, 2015, Plaintiffs had no  
23 knowledge of the alleged conspiracy or any facts or information that would have  
24 caused a reasonably diligent person to investigate whether a conspiracy existed.

25 81. None of the facts or information available to Plaintiffs prior to July  
26 23, 2015, if investigated with reasonable diligence, could or would have led to the  
27 discovery of the conspiracy prior to July 23, 2015.

28 82. As a result of Defendants' and their co-conspirators' fraudulent

1 concealment of the conspiracy, the running of any statutes of limitations has been  
2 tolled with respect to Plaintiffs' claims of anticompetitive or unfair business  
3 practice conduct alleged in this Complaint.

4  
5 **CAUSES OF ACTION**

6 **FIRST CLAIM FOR RELIEF**

7 **Violation of Section 1 of the Sherman Act, 15 U.S.C. § 1**

8 **(By All Plaintiffs On Behalf of The Sherman Act Nationwide Class for**  
9 **Injunctive Relief)**

10 83. Plaintiffs repeat and reassert each of the allegations contained in the  
11 preceding paragraphs as if fully set forth herein.

12 84. Defendants and their co-conspirators engaged in a continuing contract,  
13 combination, or conspiracy to artificially fix, raise, maintain and/or stabilize the prices  
14 of PSPs within the United States, its territories, and the District of Columbia in  
15 violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

16 85. Defendants' anticompetitive acts were intentionally directed at the  
17 United States market for shelf-stable packaged seafood products and had a  
18 substantial and foreseeable effect on interstate commerce by raising and fixing  
19 shelf-stable packaged seafood prices throughout the United States.

20 86. The contract, combination or conspiracy had the following direct,  
21 substantial, and reasonably foreseeable effects upon commerce in the United  
22 States and upon import commerce:

- 23 a. prices charged to, and paid by, Plaintiffs and members of the  
24 Classes were artificially raised, fixed, maintained, or stabilized  
25 at supracompetitive levels;
- 26 b. Plaintiffs and members of the Classes have been  
27 deprived of the benefits of free, open and unrestricted  
28 competition in the shelf-stable packaged seafood

1 products market in the United States;

2 c. competition in establishing prices paid for shelf-stable  
3 packaged seafood products has been unlawfully  
4 restrained, suppressed, or eliminated;

5 87. Defendants and their co-conspirators' anticompetitive activities  
6 have directly and proximately caused injury to Plaintiffs and members of the  
7 Classes in the United States.

8 88. As a direct, foreseeable, and proximate result of Defendants'  
9 anticompetitive conduct, Plaintiffs and the Classes have been injured in their  
10 business and property and are threatened with further injury. Accordingly,  
11 Plaintiffs and the Classes seek injunctive relief.

12 **SECOND CLAIM FOR RELIEF**

13 **Violation of Section 16720 of the**

14 **California Business and Professions Code ("The Cartwright Act")**

15 **(By Plaintiff Evelyn Olive on Behalf of The Cartwright Act Nationwide Class)**

16 89. Plaintiff Evelyn Olive repeats and reasserts each of the allegations  
17 contained in the preceding paragraphs.

18 90. The violations of federal antitrust law set forth above also constitute  
19 violations of section 16720 of California Business and Professions Code.

20 91. During the Class Period, Defendants and their co-conspirators  
21 engaged in a continuing contract, combination or conspiracy in unreasonable  
22 restraint of trade and commerce and other anticompetitive conduct alleged above in  
23 violation of California Business and Professions Code section 16700, *et seq.*

24 92. Defendants' anticompetitive acts described above were knowing,  
25 willful and constitute violations or flagrant violations of California Business and  
26 Professions Code section 16700, *et seq.*

27 93. As a direct and proximate result of Defendants' unlawful conduct,  
28 Plaintiffs and members of the Nationwide Class have been injured in their business

1 and property in that they paid more for PSPs than they otherwise would have paid  
 2 in the absence of Defendants' unlawful conduct. As a result of Defendants'  
 3 violation of section 16720 of California Business and Professions Code, Plaintiffs  
 4 and members of the California Class seek treble damages and their cost of suit,  
 5 including reasonable attorneys' fees, pursuant to section 16750(a) of California  
 6 Business and Professions Code.

7 **THIRD CLAIM FOR RELIEF**

8 **Violations of California Business and Professions Code § 17200, *et seq.***  
 9 **(the "UCL")**

10 **(By Plaintiff Evelyn Olive on Behalf of**  
 11 **The Cartwright Act Nationwide Class)**

12 94. Plaintiff Evelyn Olive repeats and reasserts each of the allegations  
 13 contained in the preceding paragraphs.

14 95. The violations of federal antitrust law set forth above also constitute  
 15 violations of section 17200, *et seq.* of California Business and Professions Code,  
 16 also known as the Unfair Competition Law (or "UCL").

17 96. Defendants have engaged in unfair competition or unfair,  
 18 unconscionable, deceptive or fraudulent acts or practices in violation of the UCL  
 19 by engaging in the acts and practices specified above.

20 97. This claim is instituted pursuant to sections 17203 and 17204 of  
 21 California Business and Professions Code, to obtain restitution from these  
 22 Defendants for acts, as alleged herein, that violated the UCL.

23 98. The Defendants' conduct as alleged herein violated the UCL. The  
 24 acts, omissions, misrepresentations, practices and non-disclosures of Defendants,  
 25 as alleged herein, constituted a common, continuous, and continuing course of  
 26 conduct of unfair competition by means of unfair, unlawful, and/or fraudulent  
 27 business acts or practices within the meaning of the UCL, including, but not  
 28 limited to, the following: (1) the violations of Section 1 of the Sherman Act, as set

1 forth above; and (2) the violations of section 16720, *et seq.*, of California Business  
2 and Professions Code, set forth above.

3 99. Defendants' acts, omissions, misrepresentations, practices, and non-  
4 disclosures, as described above, whether or not in violation of section 16720, *et*  
5 *seq.*, of California Business and Professions Code, and whether or not concerted or  
6 independent acts, are otherwise unfair, unconscionable, unlawful or fraudulent;

7 100. Plaintiffs and members of the Nationwide Class are entitled to full  
8 restitution and/or disgorgement of all revenues, earnings, profits, compensation,  
9 and benefits that may have been obtained by Defendants as a result of such  
10 business acts or practices.

11 101. The illegal conduct alleged herein is continuing and there is no  
12 indication that Defendants will not continue such activity into the future.

13 102. The unlawful and unfair business practices of Defendants, and each of  
14 them, as described above, have caused and continue to cause Plaintiffs and the  
15 members of the California Class to pay supra competitive and artificially-inflated  
16 prices for PSPs sold in the United States. Plaintiffs and the members of the  
17 California Class suffered injury in fact and lost money or property as a result of  
18 such unfair competition.

19 103. As alleged in this Complaint, Defendants and their co-conspirators  
20 have been unjustly enriched as a result of their wrongful conduct and by  
21 Defendants' unfair competition. Plaintiff Evelyn Olive and the members of the  
22 Nationwide Class are accordingly entitled to equitable relief including restitution  
23 and/or disgorgement of all revenues, earnings, profits, compensation, and benefits  
24 that may have been obtained by Defendants as a result of such business practices,  
25 pursuant to California Business and Professions Code sections 17203 and 17204.

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**FOURTH CLAIM FOR RELIEF**

**Violation of Section 16720 of the  
California Business and Professions Code (“The Cartwright Act”)  
(By Plaintiff Evelyn Olive on Behalf of the California Class)**

104. Plaintiff Evelyn Olive repeats and reasserts each of the allegations contained in the preceding paragraphs.

105. The violations of federal antitrust law set forth above also constitute violations of section 16720 of California Business and Professions Code.

106. During the Class Period, Defendants and their co-conspirators engaged in a continuing contract, combination or conspiracy in unreasonable restraint of trade and commerce and other anticompetitive conduct alleged above in violation of California Business and Professions Code section 16700, *et seq.*

107. Defendants’ anticompetitive acts described above were knowing, willful and constitute violations or flagrant violations of California Business and Professions Code section 16700, *et seq.*

108. As a direct and proximate result of Defendants’ unlawful conduct, Plaintiffs and members of the California Class have been injured in their business and property in that they paid more for PSPs than they otherwise would have paid in the absence of Defendants’ unlawful conduct. As a result of Defendants’ violation of section 16720 of California Business and Professions Code, Plaintiffs and members of the California Class seek treble damages and their cost of suit, including reasonable attorneys’ fees, pursuant to section 16750(a) of California Business and Professions Code.

**FIFTH CLAIM FOR RELIEF**

**Violations of California Business and Professions Code § 17200, *et seq.*  
(the “UCL”)**

**(By Plaintiff Evelyn Olive on Behalf of the California Class)**

109. Plaintiff Evelyn Olive repeats and reasserts each of the allegations



1 contained in the preceding paragraphs.

2 110. The violations of federal antitrust law set forth above also constitute  
3 violations of section 17200, *et seq.* of California Business and Professions Code,  
4 also known as the Unfair Competition Law (or “UCL”).

5 111. Defendants have engaged in unfair competition or unfair,  
6 unconscionable, deceptive or fraudulent acts or practices in violation of the UCL  
7 by engaging in the acts and practices specified above.

8 112. This claim is instituted pursuant to sections 17203 and 17204 of  
9 California Business and Professions Code, to obtain restitution from these  
10 Defendants for acts, as alleged herein, that violated the UCL.

11 113. The Defendants’ conduct as alleged herein violated the UCL. The  
12 acts, omissions, misrepresentations, practices and non-disclosures of Defendants,  
13 as alleged herein, constituted a common, continuous, and continuing course of  
14 conduct of unfair competition by means of unfair, unlawful, and/or fraudulent  
15 business acts or practices within the meaning of the UCL, including, but not  
16 limited to, the following: (1) the violations of Section 1 of the Sherman Act, as set  
17 forth above; and (2) the violations of section 16720, *et seq.*, of California Business  
18 and Professions Code, set forth above.

19 114. Defendants’ acts, omissions, misrepresentations, practices, and non-  
20 disclosures, as described above, whether or not in violation of section 16720, *et*  
21 *seq.*, of California Business and Professions Code, and whether or not concerted or  
22 independent acts, are otherwise unfair, unconscionable, unlawful or fraudulent;

23 115. Plaintiffs and members of the California Class are entitled to full  
24 restitution and/or disgorgement of all revenues, earnings, profits, compensation,  
25 and benefits that may have been obtained by Defendants as a result of such  
26 business acts or practices.

27 116. The illegal conduct alleged herein is continuing and there is no  
28 indication that Defendants will not continue such activity into the future.

117. The unlawful and unfair business practices of Defendants, and each of them, as described above, have caused and continue to cause Plaintiffs and the members of the California Class to pay supra competitive and artificially-inflated prices for PSPs sold in the State of California. Plaintiffs and the members of the California Class suffered injury in fact and lost money or property as a result of such unfair competition.

118. As alleged in this Complaint, Defendants and their co-conspirators have been unjustly enriched as a result of their wrongful conduct and by Defendants' unfair competition. Plaintiff Evelyn Olive and the members of the California Class are accordingly entitled to equitable relief including restitution and/or disgorgement of all revenues, earnings, profits, compensation, and benefits that may have been obtained by Defendants as a result of such business practices, pursuant to California Business and Professions Code sections 17203 and 17204.

#### **SIXTH CLAIM FOR RELIEF**

##### **Violation of Sections 6-5-60, 8-10-1 and 8-10-3 of the Alabama Code (By Plaintiff Sterling King On Behalf of the Alabama Class)**

119. Plaintiff Sterling King repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

120. The violations of federal antitrust law set forth above also constitute violations of sections 6-5-60, 8-10-1 and 8-10-3 of the Alabama Code.

121. During the Class Period, Defendants and their co-conspirators engaged in a contract, agreement, arrangement or combination in restraint of competition and the free exercise of activity in the conduct of business, trade or commerce in violation of Alabama Code sections 8-10-1 and 8-10-2.

122. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff and members of the Alabama Class have been injured in their business and property in that they paid more for PSPs than they otherwise would have paid in the absence of Defendants' unlawful conduct. As a result of Defendants'

1 violations of sections 6-5-60, 8-10-1, and 8-10-3 of the Alabama Code, Plaintiff  
2 Sterling King and the other members of the Alabama Class seek such actual  
3 damages plus \$500 per violation, pursuant to sections 8-10-1 to 8-10-3 of the  
4 Alabama Code.

5 **SEVENTH CLAIM FOR RELIEF**

6 **Violation of Arizona's Uniform State Antitrust Act,**

7 **Ariz. Rev. Stat. § 44-1401, *et seq.***

8 **(By Plaintiff Tina Grant on Behalf of the Arizona Class)**

9 123. Plaintiff Tina Grant repeats and reasserts each of the allegations  
10 contained in the preceding paragraphs as if fully set forth herein.

11 124. By reason of the conduct alleged herein, Defendants have violated  
12 Arizona Rev. Stat. § 44-1401, *et seq.*

13 125. Defendants entered into a contract, combination, or conspiracy  
14 between two or more persons in restraint of, or to monopolize, trade or commerce  
15 in the PSP market, a substantial part of which occurred within Arizona.

16 126. Defendant established, maintained, or used a monopoly, or attempted  
17 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
18 substantial part of which occurred within Arizona, for the purpose of excluding  
19 competition or controlling, fixing, or maintaining prices in the PSP Market.

20 127. Defendants' violations of Arizona law were flagrant.

21 128. Defendants' unlawful conduct substantially affected Arizona's trade  
22 and commerce.

23 129. As a direct and proximate cause of Defendants' unlawful conduct, the  
24 members of the Arizona Class have been injured in their business or property and  
25 are threatened with further injury.

26 130. By reason of the foregoing, the Arizona Class is entitled to seek all  
27 forms of relief available under Arizona Revised Stat. § 44-1401, *et seq.*

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**EIGHTH CLAIM FOR RELIEF**

**Violation of the District of Columbia Antitrust Act,**

**D.C. Code § 28-4509(a), *et seq.***

**(By Plaintiff Paul Berger on Behalf of the District of Columbia Class)**

131. Plaintiff Paul Berger repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

132. By reason of the conduct alleged herein, Defendants have violated D.C. Code § 28-4509(a), *et seq.*

133. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP market, a substantial part of which occurred within the District of Columbia.

134. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within the District of Columbia, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

135. Defendants' violations of District of Columbia law were flagrant.

136. Defendants' unlawful conduct substantially affected the District of Columbia's trade and commerce.

137. As a direct and proximate cause of Defendants' unlawful conduct, the members of the District of Columbia Class have been injured in their business or property and are threatened with further injury.

138. By reason of the foregoing, the District of Columbia Class is entitled to seek all forms of relief available, including treble damages plus reasonable attorney's fees and costs under D.C. Code § 28-4508(a), *et seq.*

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**NINTH CLAIM FOR RELIEF**

**Violation of the District of Columbia Consumer Protection Procedures Act,  
D.C. Code § 28-3901, *et seq.***

**(By Plaintiff Paul Berger on Behalf of the District of Columbia Class)**

139. Plaintiff Paul Berger repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

140. By reason of the conduct alleged herein, Defendants have violated D.C. Code § 28-3901, *et seq.*

141. Defendants are “merchants” within the meaning of D.C. Code § 28-3901(a)(3).

142. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP market, a substantial part of which occurred within the District of Columbia.

143. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within the District of Columbia, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

144. Defendants’ conduct was an unfair method of competition, and an unfair or deceptive act or practice within the conduct of commerce within the State of Florida.

145. Defendants’ unlawful conduct substantially affected the District of Columbia’s trade and commerce.

146. As a direct and proximate cause of Defendants’ unlawful conduct, the members of the District of Columbia Class have been injured in their business or property and are threatened with further injury.

147. By reason of the foregoing, the District of Columbia Class is entitled

1 to seek all forms of relief, including treble damages or \$1500 per violation  
2 (whichever is greater) plus punitive damages, reasonable attorney's fees and costs  
3 under D.C. Code § 28-3901, *et seq.*

4 **TENTH CLAIM FOR RELIEF**

5 **Violation of the Florida Deceptive and Unfair Trade Practices Act,**  
6 **Fla. Stat. § 542.22(2), *et seq.***

7 **(By Plaintiff Marc Blumstein on Behalf of the Florida Class)**

8 148. Plaintiff Marc Blumstein repeats and reasserts each of the allegations  
9 contained in the preceding paragraphs as if fully set forth herein.

10 149. By reason of the conduct alleged herein, Defendants have violated  
11 Fla. Stat. § 542.22(2), *et seq.*

12 150. Defendants entered into a contract, combination, or conspiracy  
13 between two or more persons in restraint of, or to monopolize, trade or commerce  
14 in the PSP market, a substantial part of which occurred within Florida.

15 151. Defendant established, maintained, or used a monopoly, or attempted  
16 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
17 substantial part of which occurred within Florida, for the purpose of excluding  
18 competition or controlling, fixing, or maintaining prices in the PSP Market.

19 152. Defendants' conduct was an unfair method of competition, and an  
20 unfair or deceptive act or practice within the conduct of commerce within the State  
21 of Florida.

22 153. Defendants' unlawful conduct substantially affected Florida's trade  
23 and commerce.

24 154. As a direct and proximate cause of Defendants' unlawful conduct, the  
25 members of the Florida Class have been injured in their business or property and  
26 are threatened with further injury.

27 155. By reason of the foregoing, the Florida Class is entitled to seek all  
28 forms of relief, including actual damages and reasonable attorney's fees and costs

1 under Fla. Stat. 501.211(2) , *et seq.*

2 **ELEVENTH CLAIM FOR RELIEF**

3 **Violation of the Illinois Antitrust Act,**

4 **740 Ill. Comp. Stat. Ann. 10/3(1), *et seq.***

5 **(By Plaintiff Sally Crnkovich on Behalf of the Illinois Class)**

6 156. Plaintiff Sally Crnkovich repeats and reasserts each of the allegations  
7 contained in the preceding paragraphs as if fully set forth herein.

8 157. By reason of the conduct alleged herein, Defendants have violated  
9 740 Ill. Comp. Stat. Ann. 10/3(1), *et seq.*

10 158. Defendants entered into a contract, combination, or conspiracy  
11 between two or more persons in restraint of, or to monopolize, trade or commerce  
12 in the PSP market, a substantial part of which occurred within Illinois.

13 159. Defendant established, maintained, or used a monopoly, or attempted  
14 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
15 substantial part of which occurred within Illinois, for the purpose of excluding  
16 competition or controlling, fixing, or maintaining prices in the PSP Market.

17 160. Defendants' violations of Illinois law were flagrant.

18 161. Defendants' unlawful conduct substantially affected Illinois's trade  
19 and commerce.

20 162. As a direct and proximate cause of Defendants' unlawful conduct, the  
21 members of the Illinois Class have been injured in their business or property and  
22 are threatened with further injury.

23 163. By reason of the foregoing, the Illinois Class is entitled to seek all  
24 forms of relief, including treble damages, reasonable attorney's fees and costs, and  
25 injunctive relief available under 740 Ill. Comp. Stat. Ann. 10/7(2), *et seq.*

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**TWELFTH CLAIM FOR RELIEF**

**Violation of the Illinois Consumer Fraud and**

**Deceptive Business Practices Act,**

**815 Ill. Comp. Stat. Ann. 505/10a, *et seq.***

**(By Plaintiff Sally Crnkovich on Behalf of the Illinois Class)**

164. Plaintiff Sally Crnkovich repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

165. By reason of the conduct alleged herein, Defendants have violated 740 Ill. Comp. Stat. Ann. 10/3(1), *et seq.*

166. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP market, a substantial part of which occurred within Illinois.

167. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within Illinois, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

168. Defendants' conduct was unfair, unconscionable, or deceptive within the conduct of commerce within the State of Illinois.

169. Defendants' conduct misled consumers, withheld material facts, and resulted in material misrepresentations to Plaintiff and members of the Class.

170. Defendants' unlawful conduct substantially affected Illinois's trade and commerce.

171. As a direct and proximate cause of Defendants' unlawful conduct, the members of the Illinois Class have been injured in their business or property and are threatened with further injury.

172. By reason of the foregoing, the Illinois Class is entitled to seek all forms of relief, including actual damages or any other relief the Court deems proper under 815 Ill. Comp. Stat. Ann. 505/10a, *et seq.*

**THIRTEENTH CLAIM FOR RELIEF**

**Violation of the Michigan Antitrust Reform Act**

**(By Plaintiff Louise Adams on Behalf of the Michigan Class)**

173. Plaintiff Louise Adams repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

174. By reason of the conduct alleged herein, Defendants have violated Mich. Comp. Laws Ann. § 445.771, *et seq.*

175. Defendants have entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP Market, a substantial part of which occurred within Michigan.

176. Defendants established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the PSP Market, for the purpose of excluding or limiting competition or controlling or maintaining prices, a substantial part of which occurred within Michigan.

177. Defendants' unlawful conduct substantially affected Michigan's trade and commerce.

178. As a direct and proximate cause of Defendants' unlawful conduct, the members of the Michigan Class have been injured in their business or property and are threatened with further injury.

179. By reason of the foregoing, the Michigan Class is entitled to seek all forms of relief available under Mich. Comp. Laws Ann. § 445.771, *et seq.*

**FOURTEENTH CLAIM FOR RELIEF**

**Violation of the Michigan Consumer Protection Act**

**(By Plaintiff Louise Adams on Behalf of the Michigan Class)**

180. Plaintiff Louise Adams repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

181. By reason of the conduct alleged herein, Defendants have violated Mich. Comp. Laws Ann. § 445.901, *et seq.*

1 182. Defendants have entered into a contract, combination, or conspiracy  
2 between two or more persons in restraint of, or to monopolize, trade or commerce  
3 in the PSP Market, a substantial part of which occurred within Michigan.

4 183. Defendants established, maintained, or used a monopoly, or attempted  
5 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose  
6 of excluding or limiting competition or controlling or maintaining prices, a  
7 substantial part of which occurred within Michigan.

8 184. Defendants' conduct was conducted with the intent to deceive  
9 Michigan consumers regarding the nature of Defendants' actions within the stream  
10 of Michigan commerce.

11 185. Defendants' conduct was unfair, unconscionable, or deceptive within  
12 the conduct of commerce within the State of Michigan.

13 186. Defendants' conduct misled consumers, withheld material facts, and  
14 took advantage of Plaintiff and class members' inability to protect themselves.

15 187. Defendants' unlawful conduct substantially affected Michigan's trade  
16 and commerce.

17 188. As a direct and proximate cause of Defendants' unlawful conduct, the  
18 members of the Michigan Class have been injured in their business or property and  
19 are threatened with further injury.

20 189. By reason of the foregoing, the Michigan Class is entitled to seek all  
21 forms of relief available under Mich. Comp. Laws Ann. § 445.901, *et seq.*

22 **FIFTEENTH CLAIM FOR RELIEF**

23 **Violation of Section 340 of the New York General Business Law**

24 **(By Plaintiff Brian Levy On Behalf of the New York Class)**

25 190. Plaintiff Brian Levy repeats and reasserts each of the allegations  
26 contained in the preceding paragraphs.

27 191. The violations of federal antitrust law set forth above also constitute  
28 violations of section 340 of the New York General Business Law.

1           192. During the Class Period, Defendants and their co-conspirators  
2 engaged in a contract, agreement, arrangement or combination in restraint of  
3 competition and the free exercise of activity in the conduct of business, trade or  
4 commerce in violation New York General Business Law section 340.

5           193. Defendants' anticompetitive acts described above were knowing,  
6 willful and constitute violations or flagrant violations of New York General  
7 Business Law section 340, *et seq.*

8           194. As a direct and proximate result of Defendants' unlawful conduct,  
9 Plaintiffs and members of the New York Class have been injured in their business  
10 and property in that they paid more for PSPs than they otherwise would have paid  
11 in the absence of Defendants' unlawful conduct. As a result of Defendants'  
12 violations of section 340 of the New York General Business Law, Plaintiff Brian  
13 Levy and the other members of the New York Class seek such damages as may be  
14 permitted by law, their costs of suit and reasonable attorneys' fees, pursuant to  
15 section 340 of the New York General Business Law.

16           195. Pursuant to section 340(5) of the New York General Business Law,  
17 contemporaneously with the filing of this action, notice of the commencement of  
18 this civil action is being served upon the Attorney General of New York.

19                           **SIXTEENTH CLAIM FOR RELIEF**

20                           **Violation of the North Carolina General Statutes,**

21                           **N.C. Gen. Stat. § 75-1, *et seq.***

22                           **(By Plaintiff Elizabeth Twitchell on Behalf of the North Carolina Class)**

23           196. Plaintiff Elizabeth Twitchell repeats and reasserts each of the  
24 allegations contained in the preceding paragraphs as if fully set forth herein.

25           197. Defendants entered into a contract or combination in the form of trust  
26 or otherwise, or conspiracy in restraint of trade or commerce in the PSP Market, a  
27 substantial part of which occurred within North Carolina.

28           198. Defendants established, maintained, or used a monopoly, or attempted

1 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose  
2 of affecting competition or controlling, fixing, or maintaining prices, a substantial  
3 part of which occurred within North Carolina.

4 199. Defendants' unlawful conduct substantially affected North Carolina's  
5 trade and commerce.

6 200. As a direct and proximate cause of Defendants' unlawful conduct, the  
7 members of the North Carolina Class have been broken up, destroyed, or injured in  
8 their business or property and are threatened with further injury.

9 201. By reason of the foregoing, the North Carolina Class is entitled to  
10 seek all forms of relief available, including treble damages, under N.C. Gen. Stat. §  
11 75-1, *et seq.*

12 **SEVENTEENTH CLAIM FOR RELIEF**

13 **Violation of the North Carolina Unfair Trade and Business Practices Act,**

14 **N.C. Gen. Stat. § 75-1.1, *et seq.***

15 **(By Plaintiff Elizabeth Twitchell on Behalf of the North Carolina Class)**

16 202. Plaintiff Elizabeth Twitchell repeats and reasserts each of the  
17 allegations contained in the preceding paragraphs as if fully set forth herein.

18 203. By reason of the conduct alleged herein, Defendants have violated  
19 N.C. Gen Stat. § 75-1.1, *et seq.*

20 204. Defendants entered into a contract, combination, or conspiracy  
21 between two or more persons in restraint of, or to monopolize, trade or commerce  
22 in the PSP market, a substantial part of which occurred within Utah.

23 205. Defendants' conduct was unfair, unconscionable, or deceptive within  
24 the conduct of commerce within the State of North Carolina.

25 206. Defendants' trade practices are and have been immoral, unethical,  
26 unscrupulous, and substantially injurious to consumers.

27 207. Defendants' conduct misled consumers, withheld material facts, and  
28 resulted in material misrepresentations to Plaintiff and members of the Class.

1           208. Defendants' unlawful conduct substantially affected North Carolina's  
2 trade and commerce.

3           209. As a direct and proximate cause of Defendants' unlawful conduct, the  
4 members of the North Carolina Class have been injured in their business or  
5 property and are threatened with further injury.

6           210. By reason of the foregoing, the North Carolina Class is entitled to  
7 seek all forms of relief, including treble damages under N.C. Gen. Stat. § 75-16.

8                           **EIGHTEENTH CLAIM FOR RELIEF**

9                           **Violation of the Tennessee Trade Practices Act,**

10                          **Tenn. Code Ann. § 47-125-101, *et seq.***

11                          **(By Plaintiff John Trent on Behalf of the Tennessee Class)**

12           211. Plaintiff John Trent repeats and reasserts each of the allegations  
13 contained in the preceding paragraphs as if fully set forth herein.

14           212. By reason of the conduct alleged herein, Defendants have violated  
15 Tenn. Code Ann. § 47-125-101, *et seq.*

16           213. Defendants entered into a contract, combination, or conspiracy  
17 between two or more persons in restraint of, or to monopolize, trade or commerce  
18 in the PSP market, a substantial part of which occurred within Tennessee.

19           214. Defendant established, maintained, or used a monopoly, or attempted  
20 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
21 substantial part of which occurred within Tennessee, for the purpose of excluding  
22 competition or controlling, fixing, or maintaining prices in the PSP Market.

23           215. Defendants' violations of Tennessee law were flagrant.

24           216. Defendants' unlawful conduct substantially affected Tennessee's trade  
25 and commerce.

26           217. As a direct and proximate cause of Defendants' unlawful conduct, the  
27 members of the Tennessee Class have been injured in their business or property  
28 and are threatened with further injury.

1           218. By reason of the foregoing, the Tennessee Class is entitled to seek all  
2 forms of relief available under Tenn. Code Ann. § 47-125-101, *et seq.*

3                           **NINETEENTH CLAIM FOR RELIEF**

4                           **Violation of the Utah Antitrust Act,**

5                           **Utah Code Ann. § 76-10-911, *et seq.***

6                           **(By Plaintiff Tina Grant on Behalf of the Utah Class)**

7           219. Plaintiff Tina Grant repeats and reasserts each of the allegations  
8 contained in the preceding paragraphs as if fully set forth herein.

9           220. By reason of the conduct alleged herein, Defendants have violated  
10 Utah Code Ann. § 76-10-911, *et seq.*

11           221. Defendants entered into a contract, combination, or conspiracy  
12 between two or more persons in restraint of, or to monopolize, trade or commerce  
13 in the PSP market, a substantial part of which occurred within Utah.

14           222. Defendant established, maintained, or used a monopoly, or attempted  
15 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
16 substantial part of which occurred within Utah, for the purpose of excluding  
17 competition or controlling, fixing, or maintaining prices in the PSP Market.

18           223. Defendants' violations of Utah law were flagrant.

19           224. Defendants' unlawful conduct substantially affected Utah's trade and  
20 commerce.

21           225. As a direct and proximate cause of Defendants' unlawful conduct, the  
22 members of the Utah Class have been injured in their business or property and are  
23 threatened with further injury.

24           226. By reason of the foregoing, the Utah Class is entitled to seek all forms  
25 of relief, including treble damages, reasonable attorney's fees and costs, and  
26 injunctive relief available under Utah Code Ann. § 76-10-919(1), *et seq.*

27           227. Pursuant to section 76-10-919(9) of the Utah Antitrust Act,  
28 contemporaneously with the filing of this action, notice of the commencement of



1 this civil action is being served upon the Attorney General of Utah.

2 **TWENTIETH CLAIM FOR RELIEF**

3 **Violation of the Utah Consumer Sales Practices Act,**

4 **Utah Code Ann. § 13-11-19, *et seq.***

5 **(By Plaintiff Tina Grant on Behalf of the Utah Class)**

6 228. Plaintiff Tina Grant repeats and reasserts each of the allegations  
7 contained in the preceding paragraphs as if fully set forth herein.

8 229. By reason of the conduct alleged herein, Defendants have violated  
9 Utah Code Ann. § 13-11-19, *et seq.*

10 230. Defendants entered into a contract, combination, or conspiracy  
11 between two or more persons in restraint of, or to monopolize, trade or commerce  
12 in the PSP market, a substantial part of which occurred within Utah.

13 231. Defendant established, maintained, or used a monopoly, or attempted  
14 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
15 substantial part of which occurred within Utah, for the purpose of excluding  
16 competition or controlling, fixing, or maintaining prices in the PSP Market.

17 232. Defendants' conduct was unfair, unconscionable, or deceptive within  
18 the conduct of commerce within the State of Utah.

19 233. Defendants' conduct misled consumers, withheld material facts, and  
20 resulted in material misrepresentations to Plaintiff and members of the Class.

21 234. Defendants' unlawful conduct substantially affected Utah's trade and  
22 commerce.

23 235. As a direct and proximate cause of Defendants' unlawful conduct, the  
24 members of the Utah Class have been injured in their business or property and are  
25 threatened with further injury.

26 ///

27 ///

28 ///

236. By reason of the foregoing, the Utah Class is entitled to seek all forms of relief, including actual damages or \$2000 per Utah Class Member, whichever is greater, plus reasonable attorney's fees under Utah Code Ann. § 11-13-19(5), *et seq.*

**TWENTY-FIRST CLAIM FOR RELIEF**

**Violation of the Vermont Consumer Fraud Act,**

**Vt. Stat. Ann. tit. 9, §§ 2453, *et seq.***

**(By Plaintiff Jennifer A. Nelson on Behalf of the Vermont Class)**

237. Plaintiff Jennifer A. Nelson repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

238. By reason of the conduct alleged herein, Defendants have violated Vt. Stat. Ann. tit. 9, § 2453, *et seq.*

239. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP market, a substantial part of which occurred within Vermont.

240. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within Vermont, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

241. Defendants' violations of Vermont law were flagrant.

242. Defendants' unlawful conduct substantially affected Vermont's trade and commerce.

243. As a direct and proximate cause of Defendants' unlawful conduct, the members of the Vermont Class have been injured in their business or property and are threatened with further injury.

244. By reason of the foregoing, the Vermont Class is entitled to seek all forms of relief, including treble damages, available under Vt. Stat. Ann. tit. 9, §§ 2465, *et seq.*

**TWENTY-SECOND CLAIM FOR RELIEF**

**Violation of the Virginia Consumer Protection Act,**

**Va. Code Ann. § 52.1-200, *et seq.***

**(By Plaintiff Elizabeth Twitchell on Behalf of the Virginia Class)**

245. Plaintiff Elizabeth Twitchell repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

246. By reason of the conduct alleged herein, Defendants have violated Va. Code Ann. § 52.1-200, *et seq.*

247. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP market, a substantial part of which occurred within Virginia.

248. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within Virginia, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

249. Defendants' conduct was unfair, unconscionable, or deceptive within the conduct of commerce within the State of Virginia.

250. Defendants' amounted to a fraudulent act or practice committed by a supplier in connection with a consumer transaction.

251. Defendants' unlawful conduct substantially affected Virginia's trade and commerce.

252. Defendants' conduct was willful.

253. As a direct and proximate cause of Defendants' unlawful conduct, the members of the Virginia Class have been injured in their business or property and are threatened with further injury.

254. By reason of the foregoing, the Virginia Class is entitled to seek all forms of relief, including treble damages or \$1000 per violation, whichever is greater, plus reasonable attorney's fees and costs under Va. Code Ann. § 59.1-

204(A) , *et seq.*

**TWENTY-THIRD CLAIM FOR RELIEF**

**Violation of the Wisconsin Antitrust Act,**

**Wis. Stat. Ann. § 133.18(1), *et seq.***

**(By Plaintiff Jessica Breitbach on Behalf of the Wisconsin Class)**

255. Plaintiff Jessica Breitbach repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

256. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the PSP Market, a substantial part of which occurred within Wisconsin.

257. Defendants established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within Wisconsin, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

258. Defendants' unlawful conduct substantially affected Wisconsin's trade and commerce.

259. As a direct and proximate cause of Defendants' unlawful conduct, the members of the Wisconsin Class have been injured in their business or property and are threatened with further injury.

260. By reason of the foregoing, the Wisconsin Class is entitled to seek all forms of relief available under Wis. Stat. § 133.01, *et seq.*

**TWENTY-FOURTH CLAIM FOR RELIEF**

**Violation of the Wisconsin Deceptive Trade Practices Act,**

**Wis. Stat. Ann. § 100.18(1), *et seq.***

**(By Plaintiff Jessica Breitbach on Behalf of the Wisconsin Class)**

261. Plaintiff Jessica Breitbach repeats and reasserts each of the allegations contained in the preceding paragraphs as if fully set forth herein.

262. By reason of the conduct alleged herein, Defendants have violated

1 Wis. Stat. Ann. § 100.18(1), *et seq.*

2 263. Defendants entered into a contract, combination, or conspiracy  
3 between two or more persons in restraint of, or to monopolize, trade or commerce  
4 in the PSP market, a substantial part of which occurred within Wisconsin.

5 264. Defendant established, maintained, or used a monopoly, or attempted  
6 to establish a monopoly, of trade or commerce in the Relevant Markets, a  
7 substantial part of which occurred within Utah, for the purpose of excluding  
8 competition or controlling, fixing, or maintaining prices in the PSP Market.

9 265. Defendants' conduct was unfair, unconscionable, or deceptive within  
10 the conduct of commerce within the State of Wisconsin.

11 266. Defendants' conduct misled consumers, withheld material facts, and  
12 resulted in material misrepresentations to Plaintiff and members of the Class.

13 267. Defendants' unlawful conduct substantially affected Wisconsin's  
14 trade and commerce.

15 268. As a direct and proximate cause of Defendants' unlawful conduct, the  
16 members of the Wisconsin Class have been injured in their business or property  
17 and are threatened with further injury.

18 269. By reason of the foregoing, the Wisconsin Class is entitled to seek all  
19 forms of relief, including actual damages plus reasonable attorney's fees under  
20 Wis. Stat. Ann. § 100.18(11), *et seq.*

21 **PRAYER FOR RELIEF**

22 Accordingly, Plaintiffs, on behalf of themselves and the Classes of all others  
23 so similarly situated, respectfully request that:

24 a. The Court determine that this action may be maintained as a class  
25 action under Rule 23(a), (b)(2)-(3) of the Federal Rules of Civil Procedure, and  
26 direct that reasonable notice of this action, as provided by Rule 23(c)(2) of the  
27 Federal Rules of Civil Procedure, be given to each and every member of the  
28 Classes;

1           b.     The unlawful conduct alleged herein be adjudged and decreed in  
2 violation of Sections 1 of the Sherman Act; Section 3 of the Clayton Act; the  
3 Cartwright Act; the UCL; the Alabama Code, the Arizona Uniform State Antitrust  
4 Act, the District of Columbia Antitrust Act, District of Columbia Consumer  
5 Protection Procedures Act, the Florida Deceptive and Unfair Trade Practices Act,  
6 the Illinois Antitrust Act, the Illinois Consumer Fraud and Deceptive Business  
7 Practices Act, the Michigan Antitrust Reform Act, the Michigan Consumer  
8 Protection Act, the New York General Business Law, North Carolina General  
9 Statutes, the Tennessee Trade Practices Act, the Utah Antitrust Act, the Utah  
10 Consumer Sales Practices Act, the Vermont Consumer Fraud Act, the Virginia  
11 Consumer Protection Act, the Wisconsin Antitrust Act, and the Wisconsin  
12 Deceptive Trade Practices Act;

13           c.     Plaintiffs and the members of the Classes recover damages, to the  
14 maximum extent allowed under such laws, and that a joint and several judgment in  
15 favor of Plaintiffs and the members of such Classes be entered against Defendants  
16 in an amount to be trebled to the extent such laws permit;

17           d.     Plaintiffs and the members of the Classes recover damages, to the  
18 maximum extent allowed by such laws, in the form of restitution and/or  
19 disgorgement of profits unlawfully gained from them;

20           e.     Defendants, their affiliates, successors, transferees, assignees and  
21 other officers, directors, partners, agents and employees thereof, and all other  
22 persons acting or claiming to act on their behalf or in concert with them, be  
23 permanently enjoined and restrained from in any manner continuing, maintaining  
24 or renewing the conduct, contract, conspiracy, or combination alleged herein, or  
25 from entering into any other contract, conspiracy, or combination having a similar  
26 purpose or effect, and from adopting or following any practice, plan, program, or  
27 device having a similar purpose or effect;

28

1 f. Plaintiffs and the members of the Classes be awarded pre- and post-  
2 judgment interest as provided by law, and that such interest be awarded at the  
3 highest legal rate from and after the date of service of this Complaint;

4 g. Plaintiffs and the members of the Classes recover their costs of suit,  
5 including reasonable attorneys' fees, as provided by law; and

6 h. Plaintiffs and members of the Classes have such other and further  
7 relief as the case may require and the Court may deem just and proper.

8 **JURY DEMAND**

9 Plaintiffs, on behalf of themselves and the Classes of all others similarly  
10 situated, hereby demand a trial by jury on all issues so triable pursuant to Rule 38  
11 of the Federal Rules of Civil Procedure.

12 Dated: August 28, 2015

**WOLF HALDENSTEIN ADLER  
FREEMAN & HERZ LLP**

13  
14 By: /s/ Betsy C. Manifold  
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